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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Harry V. Paul

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03/16/2005

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EXAMINER

KNOLL, CLIFFORD H

ART UNIT

PAPER NUMBER

2112

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/922,591

Applicant(s)

PAUL, HARRY V.

Examiner

Clifford H Knoll

Art Unit

2112

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

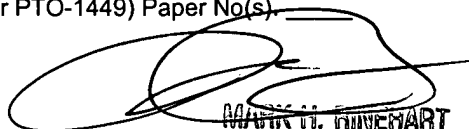
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached Response to Arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) \_\_\_\_\_.
13. ☐ Other: \_\_\_\_\_.

  
MARK H. HINEHART  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

***Response to Arguments***

Applicant's arguments filed 2/28/05 have been fully considered but they are not persuasive.

Regarding claim 1, Applicant argues that [n]owhere does Carvey discuss or suggest directly accessing the input/output modules found within these router modules. Instead, every encounter with a switch router module constitutes a 'hop' through a multi-switch fabric" (p. 4). The issue hangs on both the interpretation of "direct" and on the indefiniteness of the recitation. As to the former, the Examiner finds that Carvey's disclosure of "electrical paths that electrically connect module connectors of the first set to module connectors of the second set" (col. 2, lines 30-33) to be consistent with the plain language definition of "direct"; if the Applicant intends the "direct connection" to be an essential element of the invention, then it must be claimed in a manner to distinguish over Carvey. As to the indefiniteness of the recitation, noted in the previous Office Action under §112(2), "the direct connection" incorporates "fibre channel ports on the second set" that lack antecedent basis. While it would seem likely that the intent is to recite an additional set of ports, as currently recited this is indeterminable.

Regarding claim 16, Applicant argues as in claim 1 and these issues have been treated.

Regarding claim 34, Applicant argues that "[n]othing in Carvey or Dally suggest the use of the links of Carvey to directly connect the inputs and outputs

of Dally” (p. 6); however, as treated supra, the Examiner finds Carvey adequately discloses a direct connection as it is claimed.

Applicant further argues that “no such teaching [of a jumper communication path] is found in the [cited] passage” (p. 7); however, the passage, which refers to “configuration boards 46 positioned along the edge 45 or the edge 47” (col. 7, lines 63-65) receives clarification on this particular feature from the earlier introduction by Carvey of the configuration boards: “a configuration board that moves between an end-around position connecting nodes on a common backplane and a pass-through position connecting nodes on two backplanes. The configuration controller may further include an actuator that moves the configuration board between the end-around position and the pass-through position” (col. 2, lines 41-44). This passage identifies the configuration board cited to be readily interpretable as a “jumper communication path”.

Regarding claim 35, Applicant argues that “there is no teaching of having two connections between the same modules”; however, Carvey clearly teaches “each module connector 42 has two links 22 leading to other module connectors 42 in the Z-direction. For example, the module connector 27 has two links 32 and 38 (also see FIG. 1) that lead to other module connectors in segment 44<sub>00</sub>” (col. 6, lines 57-61). Applicant’s discussion of “mutually exclusive” modes in Carvey (p. 6) are not distinguished in the recitation, nor do they appear relevant since the feature claimed is directed to modules “within the same chassis”.

Regarding claim 36, Applicant argues that “[n]owhere is the logical division of a physical module discussed” (p. 7); however, Carvey discloses that the physical switches, previously identified are used to form a multidimensional torus arrangement at the cited passage, and which is considered a logical division of the switch. Any particular distinction from this interpretation needs to be positively recited.

Regarding claim 40, Applicant argues that Carvey does not disclose that “two physical modules be logically coupled together into a single logical switch”; however, at the cited passage, Carvey discloses a multidimensional torus, which is a logical configuration of physical switches. This logic encompasses two physical switches supported by the fact that Carvey considers the logical implications of his physical switches. Any particular distinction from this interpretation of Carvey needs to be positively recited; in particular, the recitation of what constitutes a “physical switch” and of what constitutes distinctive grouping designated as a “logical switch” would need further distinguishing recitation in order to avoid the broad interpretation it necessarily receives here.

Thus the rejection is maintained.

### ***Conclusion***

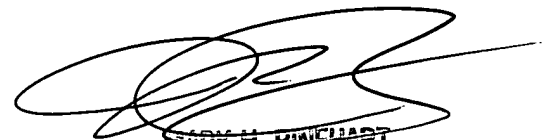
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clifford H Knoll whose telephone number is 571-272-3636. The examiner can normally be reached on M-F 0630-1500.

Art Unit: 2112

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark H Rinehart can be reached on 571-272-3632. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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